

## **REMARKS**

Claims 1 and 4 have been amended to clarify the subject matter regarded as the invention. Claims 1-9 are pending.

### ***Claim Rejections – 35 U.S.C. §103***

Claims 1-2 and 8-9 stand rejected under 35 U.S.C. §103 as being unpatentable over DE 3025955 (hereinafter, “Silny”) in view of U.S. Patent No. 4,535,779 (hereinafter, “Ober”). The remaining claims (i.e., claims 3-7) stand rejected under 35 U.S.C. §103 based on the combination of Silny and Ober further combined with one or more other references.

The rejection is respectfully traversed.

With respect to claim 1, claim 1 as amended recites, in relevant part, “the active electrode has a cap shape that is capable of contacting a skin surface of a user”. The amendments to claim 1 are supported at least by, for example and without limitation, paragraphs [0029] and [0038] of the above-identified patent application as originally filed.

Applicants respectfully submit that providing an active electrode that has a cap shape that is capable of contacting a skin surface of a user as provided in claim 1 as amended is different than providing a sensor that has rods to provide a comb like design for contacting a user’s scalp through the user’s hair as disclosed in Silny (*see, e.g.*, Silny, Fig. 1). Accordingly, claim 1 is believed to be allowable. Claims 2-9 depend from claim 1 and are therefore believed to be allowable for at least the same reasons described above.

In addition, claim 4 as amended, which depends from claim 1, further recites, in relevant part, “an instrumentation amplifier for amplifying the biomedical signal and adjusting a common mode rejection ratio and a pass band to generate an output signal, wherein the instrumentation amplifier includes three amplifiers that provide a differential amplifier and two amplifiers to form a feedback loop thereby having band pass characteristics and an amplification function; a band-pass filter for filtering the output signal from the instrumentation amplifier; and a notch filter for eliminating a noise component of 60 Hz contained in the output signal from the

instrumentation amplifier” and is believed to be allowable for at least these additional reasons. The amendments to claim 4 are supported at least by, for example and without limitation, paragraphs [0036]-[0037] of the above-identified patent application as originally filed.

The foregoing amendments are not to be taken as an admission of unpatentability of any of the claims prior to the amendments.

Reconsideration of the application and allowance of all claims are respectfully requested based on the preceding remarks. If at any time the Examiner believes that an interview would be helpful, please contact the undersigned.

Respectfully submitted,

Dated: January 26, 2012

/Michael J. Schallop/  
Michael J. Schallop  
Registration No. 44,319  
V 408-207-4762  
F 408-973-2595

VAN PELT, YI & JAMES LLP  
10050 N. Foothill Blvd., Suite 200  
Cupertino, CA 95014